

May 11, 2006

Mr. Michael Sinclair
Rumford Paper Company, Rumford Mill
35 Hartford Street
Rumford, Maine 04276

RE: Maine Pollutant Discharge Elimination System (MEPDES) Permit ME0002054
Maine Waste Discharge License (WDL) Application W000955-5N-H-M
Final Permit/License Modification

Dear Mr. Sinclair:

Enclosed is a **proposed draft** MEPDES permit and Maine WDL **modification** (permit hereinafter) which the Department proposes to issue as a final document after opportunity for your review and comment and request for a public hearing. By transmittal of this letter you are provided with an opportunity to comment on the proposed draft permit and its conditions (special conditions specific to this permit are enclosed; standard conditions applicable to all permits are available upon request). If it contains errors or does not accurately reflect present or proposed conditions, please respond to this Department so that changes can be considered.

By copy of this letter, the Department is requesting comments on the proposed draft permit from various state and federal agencies, as required by our regulations, and from any other parties who have notified the Department of their interest in this matter.

All comments must be received in the Department of Environmental Protection office on or before the close of business **Monday, June 12, 2006**. Failure to submit comments in a timely fashion will result in the final document being issued as drafted. Comments in writing should be submitted to my attention at the following address:

Maine Department of Environmental Protection
Bureau of Land & Water Quality
Division of Water Quality Management
17 State House Station
Augusta, ME 04333

If you have any questions regarding the matter, please feel free to call me at 287-7693.

Sincerely,

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality

Enc.

cc: Electronic distribution list

IN THE MATTER OF

RUMFORD PAPER COMPANY)	MAINE POLLUTANT DISCHARGE
RUMFORD, OXFORD COUNTY, MAINE)	ELIMINATION SYSTEM PERMIT
PULP & PAPER MANUFACTURING FACILITY)	AND
ME0002054)	WASTE DISCHARGE LICENSE
W000955-5N-H-M)	MODIFICATION
APPROVAL		

Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq., and Maine Law 38 M.R.S.A., Section 414-A et. seq., [more specifically 38 MRSA §§ 414-A(5)(A&B)] and all applicable regulations [more specifically 06-096 CMR Chapter 522(4)], the Department of Environmental Protection (Department hereinafter) is hereby modifying the combination Maine Pollutant Discharge Elimination System (MEPDES) permit #ME0002054/Maine Waste Discharge License (WDL) #W000955-5N-G-R (permit hereinafter) issued to the RUMFORD PAPER COMPANY (RPC hereinafter), on September 21, 2005. With its supportive data, agency review comments, and other related materials on file, the Department FINDS THE FOLLOWING FACTS:

PERMIT SUMMARY

The Department is modifying the aforementioned MEPDES permit/WDL by eliminating the schedule to come into compliance with water quality based mass limitations for total suspended solids (TSS) and modifying the schedule to come into compliance with the water quality based limitations for total phosphorus and ortho-phosphorus. The modifications are as follows:

1. Eliminating in its entirety, the schedule for compliance with the 60-day rolling average water quality limits for TSS. It is noted the September 21, 2005 permit established interim mass limitations with a schedule for compliance with final limitations on or before June 1, 2010.
2. Modifying the final date in the schedule of compliance for the summertime total phosphorus and ortho-phosphorus mass limitations of 152 lbs/day and 97 lbs/day respectively, from June 1, 2010 to June 1, 2008.

CONCLUSIONS

BASED on the findings in the attached Fact Sheet dated May 11, 2006 and subject to the terms and conditions contained herein, the Department makes the following CONCLUSIONS:

1. The discharge, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with state law.
3. The provisions of the State's antidegradation policy, 38 M.R.S.A., Section 464(4)(F), will be met, in that:
 - (a) Existing in-stream water uses and the level of water quality necessary to protect and maintain those existing uses will be maintained and protected;
 - (b) Where high quality waters of the State constitute an outstanding national resource, that water quality will be maintained and protected;
 - (c) The standards of classification of the receiving water body are met or, where the standards of classification of the receiving water body are not met, the discharge will not cause or contribute to the failure of the water body to meet the standards of classification;
 - (d) Where the actual quality of any classified receiving water body exceeds the minimum standards of the next highest classification, that higher water quality will be maintained and protected; and
 - (e) Where a discharge will result in lowering the existing quality of any water body, the Department has made the finding, following opportunity for public participation, that this action is necessary to achieve important economic or social benefits to the State.
4. The discharge will be subject to effluent limitations that require application of best practicable treatment.
5. This permit modification is necessary to correct technical or procedural mistakes or errors in the September 21, 2005 permit issued by the Department and is necessary as new information has become available subsequent to the issuance of the September 21, 2005 permit.

ACTION

THEREFORE, the Department is hereby modifying combination MEPDES permit #ME0002054/WDL W000955-5N-G-R, issued by the Department on September 21, 2005, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations including;

1. The attached Special Conditions, including effluent limitations and monitoring requirements.
2. All terms and conditions in combination MEPDES permit #ME0002054/WDL#W000955-5N-G-R, dated September 21, 2005, [except that Special Condition K(b) was stayed by the Board of Environmental Protection on March 22, 2006] not modified by this permitting action remain in effect and enforceable.
3. *“Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits,”* revised July 1, 2002, copy attached.
4. This permit modification expires on September 21, 2010, concurrent with combination MEPDES permit #ME0002054/WDL#W000955-5N-G-R issued by the Department on September 21, 2005.

DONE AND DATED AT AUGUSTA, MAINE, THIS ____ DAY OF _____, 2006.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: _____
DAVID P. LITTELL, Commissioner

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Date filed with Board of Environmental Protection _____

This order prepared by GREGG WOOD, BUREAU OF LAND AND WATER QUALITY

W9555NHM 5/11/06

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

OUTFALL #001 – Secondary treated waste waters

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u> as specified
Beginning upon issuance <u>TSS</u> [00530] <i>(June 1 – Sept 30)</i> <i>(Oct 1 – May 31)</i>	15,500 #/day	---	40,000 #/day	---	---	---	5/Week [05/07]	Composite [24]
	11,000 #/day ⁽²⁾	---	---	---	---	---	1/Day [01/01]	Calculate [CA]
	32,900 #/day	---	50,000 #/day	---	---	---	5/Week [05/07]	Composite
	15,952 #/day ⁽³⁾ [26]	---	---	---	---	---	1/Year [01/YR]	Calculate

Footnotes:

(2) 60–day rolling average defined as the average of sixty consecutive daily TSS discharges between June 1st - September 30th to be reported in the July, August, and September DMRs. The 60-day rolling average limit of 11,000 lbs/day becomes effective on June 1, 2006.

(3) Annual average defined as January 1st – December 31st of each year beginning calendar year 2006.

Revised 5/11/06

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

OUTFALL #001 – Secondary treated waste waters

Effluent Characteristic	Discharge Limitations						Minimum Monitoring Requirements	
	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Monthly Average</u> as specified	<u>Weekly Average</u> as specified	<u>Daily Maximum</u> as specified	<u>Measurement Frequency</u> as specified	<u>Sample Type</u> as specified
<u>Total Phosphorus</u> [00665] (June 1 – September 30)								
(Begin upon issuance)	160 #/day	---	Report #/day	Report mg/L ⁽⁴⁾	---	Report mg/L ⁽⁴⁾	3/Week [03/07]	Composite
(Beginning June 1, 2008)	152 #/day[26]	---	Report #/day [26]	Report mg/L ⁽⁴⁾ [19]	---	Report mg/L ⁽⁴⁾ [19]	3/Week [03/07]	Composite[24]
<u>Ortho-phosphorus</u> [70507] (June 1 – September 30)								
(Begin upon issuance)	107 #/day	---	Report #/day	Report mg/L ⁽⁴⁾	---	Report mg/L ⁽⁴⁾	3/Week [03/07]	Composite
(Beginning June 1, 2008)	97 #/day[26]	---	Report #/day[26]	Report mg/L ⁽⁴⁾ [19]	---	Report mg/L ⁽⁴⁾ [19]	3/Week [03/07]	Composite[24]
<u>Oxygen Injection</u> (June 1 – Sept. 30)								
(Begin upon issuance)	---	---	Report #/day ⁽⁵⁾	---	---	---	1/Day[01/01]	Record[RC]
(Beginning June 1, 2010)	---	---	39,900 #/day ^(6a)	---	---	---	1/Day[01/01]	Record[RC]
	---	---	9,573#/day ^(6b) [26]	---	---	---	1/Day[01/01]	Record [RC]

Footnotes:

(4) Report two (2) significant figures.

(5) Injected at Upper Narrows. See Special Condition K, *Gulf Island Pond Oxygen Injection Operation*.

(6a) At Upper Narrows. Assumes RPC injects 9,573 lbs (assumes 33% efficiency) at Lower Narrows or an equivalent amount given an alternate efficiency.

(6b) At Lower Narrows. Assumes RPC injects 39,900 lbs (assumes 33% efficiency) at Upper Narrows or an equivalent amount given an alternate efficiency.

Revised 5/11/06

SPECIAL CONDITIONS

F. MONITORING AND REPORTING

Monitoring results obtained during the previous month shall be summarized for each month and reported on separate Discharge Monitoring Report (DMR) forms provided by the Department and **postmarked on or before the thirteenth (13th) day of the month or hand-delivered to a Department Regional Office such that the DMR's are received by the Department on or before the fifteenth (15th) day of the month** following the completed reporting period. A signed copy of the DMR and all other reports required herein shall be submitted to the following addresses:

Maine Department of Environmental Protection
Central Maine Regional Office
Bureau of Land & Water Quality
Division of Water Quality Management
State House Station #17
Augusta, ME. 04333

Q. SCHEDULE OF COMPLIANCE

1. **On or before June 1, 2006, [PCS Code 34099]** the permittee shall submit to the Department for review and approval, with or without conditions, the plan for a study regarding the ability of the mill's waste water treatment facility to successfully remove BOD and TSS in a low phosphorus environment. The plan must include the methods for the control of phosphorus and the monitoring of the process and biological health of the wastewater treatment plant's removal of BOD & TSS. The report shall include, but not be limited to, a scope of work and schedule to implement phosphorus controls and improvements, recommendations, process control measures, and the key metrics that will be monitored to determine the effectiveness of the wastewater treatment plant in a low phosphorus environment. Particular emphasis will be given to the control of phosphorus and the impact of low phosphorus on the removal efficiency and effluent performance of BOD & TSS. The study design and duration shall be sufficient to note normal daily operations and be comprehensive enough to note any changes in the frequency and nature of upset conditions that affect BOD & TSS treatment.
2. **On or before December 1, 2007, [PCS Code 95999]** the permittee shall submit to the Department for review and approval, with or without conditions, a report evaluating the results of the study plan described in Q.1. above. The report shall include, but not be limited to, an evaluation of the plant's phosphorus performance and the BOD & TSS treatment performance in a low phosphorus environment and shall include a scope of work and schedule to implement improvements, recommendations, process control measures or other like measures found necessary and appropriate for compliance with the permit limits. All such measures and will be completed as soon as possible.

Revised 5/11/06

SPECIAL CONDITIONS

Q. SCHEDULE OF COMPLIANCE (cont'd)

3. **On or before December 1, 2006, [PCS Code 00199] and December 1, 2007, [PCS Code 00299]** the permittee shall submit to the Department, progress reports describing the current performance of the wastewater treatment system, manufacturing and treatment changes occurring in the previous 12-month period, compliance with the terms of this schedule of compliance, improvements proposed for the following 12-month period and the expected results from those improvements to come into compliance with interim and final total and ortho-phosphorus limitations.
4. **As soon as possible, but in no event later than June 1, 2008 [PCS Code 05699]** the permittee shall be in compliance with applicable limitations for total phosphorus and ortho-phosphorus.
5. At any time during the term of this schedule of compliance, and based on the findings of aforementioned studies/evaluations, effluent monitoring and other information, the permittee may petition the Department to suspend further actions. If the Department finds that work done to that point reasonably ensures that permittee is in compliance with any or all final effluent limit(s) pursuant to Special Condition A, *Effluent Limitations and Monitoring Requirements*, the Department will authorize the permittee to suspend further work related to the pollutant(s), provided the permittee remains in compliance with the final effluent limit(s). Nothing in this paragraph may be construed to extend or modify the compliance dates contained herein, or in any way alter final effluent limits. Specifically, suspension of work shall not be considered as a basis for extending the time for compliance with final effluent limits.

R. REOPENING OF PERMIT FOR MODIFICATIONS

Upon evaluation of the tests results specified by the Special Conditions of this permitting action, new site specific information, or any other pertinent test results or information obtained during the term of this permit, the Department may, at anytime and with notice to the permittee, modify this permit to: 1) include effluent limits necessary to control specific pollutants or whole effluent toxicity where there is a reasonable potential that the effluent may cause water quality criteria to be exceeded; (2) require additional monitoring if results on file are inconclusive; or (3) change monitoring requirements or limitations based on new information considering ambient water quality conditions.

S. SEVERABILITY

In the event that any provision, or part thereof, of this permit modification is declared to be unlawful by a reviewing court, the remainder of the permit shall remaining in full force and effect, and shall be construed and enforced in all aspects as if such unlawful provision, or part thereof, had been omitted, unless otherwise ordered by the court.

**MAINE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT
AND
MAINE WASTE DISCHARGE LICENSE**

FACT SHEET

Date: **May 11, 2006**

PERMIT NUMBER: **ME0002054**

LICENSE NUMBER: **W000955-5N-H-M**

NAME AND ADDRESS OF APPLICANT:

**RUMFORD PAPER COMPANY
35 Hartford Street
Rumford, Maine 04276**

COUNTY: **Oxford County**

NAME AND ADDRESS WHERE DISCHARGE OCCURS:

**Rumford Mill
35 Hartford Street
Rumford, Maine 04276**

RECEIVING WATER AND CLASSIFICATION: **Androscoggin River/ Class C**

COGNIZANT OFFICIAL AND TELEPHONE NUMBER: **Michael Sinclair, Env. Eng.
(207) 369-2302**

1. PERMIT SUMMARY

- a. Regulatory - Pursuant to the provisions of the Federal Water Pollution Control Act, Title 33 USC, Section 1251, et. seq., and Maine Law 38 M.R.S.A., Section 414-A et. seq., [more specifically 38 MRSA §§ 414-A(5)(A&B)] and all applicable regulations [more specifically 06-096 CMR Chapter 522(4)], the Department of Environmental Protection (Department hereinafter) is hereby modifying the combination Maine Pollutant Discharge Elimination System MEPDES permit #ME0002054/Maine Waste Discharge License (WDL) #W000955-5N-G-R (permit hereinafter) issued to the Rumford Paper Company (RPC hereinafter), on September 21, 2005. It is noted all other terms and conditions of the September 21, 2005 permit not modified by this permitting action remain in effect and enforceable.

38 MRSA 414-A, §5 *Modification, reopening and revocation* states “The following actions may be taken to reopen, modify or revoke and reissue waste discharge licenses. All actions taken under this subsection must be with notice to the licensee and all other interested parties of record and with opportunity for hearing. Actions may be appealed as set forth in sections 341-D and 346.

1. PERMIT SUMMARY

- A. *The department may reopen a license to add or change conditions or effluent limitations for toxic compounds identified in 40 Code of Federal Regulations, Section 401 or to include schedules of compliance to implement industrial pretreatment rules adopted by the board. Additionally, at the time of license issuance, the department may include as a condition of a license a provision for reopening the license for inclusion or change of specific limitations when facts available upon issuance indicate that changed circumstances or new information may be anticipated.*
- B. *A request for modification of a license may be made by the licensee for any valid cause or changed circumstance. The department may initiate a license modification:*
- (1) When necessary to correct legal, technical or procedural mistakes or errors;*
 - (2) When there has been or will be a substantial change in the activity or means of treatment that occurred after the time the license was issued;*
 - (3) When new information other than revised rules, guidance or test methods becomes available that would have justified different conditions at the time the license was issued;*
 - (4) When a pollutant not included in the license may be present in the discharge in quantities sufficient to require treatment, such as when the pollutant exceeds the level that can be achieved by the technology-based treatment standards appropriate to the licensee, or contribute to water quality violations;*
 - (5) When necessary to remove net limits based on pollutant concentration in intake water when the licensee is no longer eligible for them, consistent with federal law;*
 - (6) When necessary to make changes as a result of the failure of one state to notify another state whose waters may be affected by a discharge; or*
 - (7) When necessary to include pretreatment compliance schedules required pursuant to federal law.*

Department rule 06-096 CMR, Chapter 522, §4, *Modification, revocation and reissuance, or termination of permits* states in part;

- (a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in 38 MRSA § 414-A(5). All requests shall be in writing and shall contain facts or reasons supporting the request.*

1. PERMIT SUMMARY (cont'd)

(c)(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued

- b. Terms and Conditions The Department is modifying the aforementioned MEPDES permit/WDL by eliminating the schedule to come into compliance with the 60-day rolling average water quality based mass limitations for total suspended solids (TSS) and modifying the schedule to come into compliance with the water quality based limitations for total phosphorus and ortho-phosphorus. The modifications are as follows:
1. Eliminating in its entirety, the schedule for compliance with the 60-day rolling average water quality limits for TSS. It is noted the September 21, 2005 permit established interim mass limitations with a schedule for compliance with final limitations on or before June 1, 2010.
 2. Modifying the final date in the schedule of compliance for the summertime total phosphorus and ortho-phosphorus mass limitations of 152 lbs/day and 97 lbs/day respectively, from June 1, 2010 to June 1, 2008.
- c. History: - The most recent significant and relevant regulatory actions for the RPC's Rumford mill are as follows:
1. *September 21, 2005* - The Department issued MEPDES permit #ME0002054/WDL #W000955-5N-H-M for a five-year term.
 2. *October 21, 2005* - RPC and several interested parties filed timely appeals of the MEPDES permit/WDL with the Board of Environmental Protection (Board).
 3. *March 22, 2006* – The Board issued a Motion To Stay Procedural Order that stayed Special Condition K, *Gulf Island Pond Oxygen Injection Operation*, §b, *Schedule of Compliance*. The motion order stayed the schedule of compliance until the Board issues a decision on the appeal of the permit at which time the Board would establish a new compliance of schedule.

2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS

- a. Total Suspended Solids (TSS) - The Fact Sheet of the September 21, 2005 permit included the following italicized text;

This permit establishes seasonal monthly average, 60-day average and annual average water quality based limitations for TSS. Special Condition A, Effluent Limitations and Monitoring Requirements, of this permit establishes a five-year schedule to come into compliance with the final water quality based limitations for TSS. Maine law 38 M.R.S.A. §414(2) Schedules of Compliance, authorizes the Department to establish schedules of compliance for water quality based limitations within the terms and conditions of a license. The schedule may include interim and final dates for attainment of specific standards and must be as short as possible based on consideration of the technological, economic and environmental impact of the steps necessary to attain those standards. In addition Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, Schedules of Compliance, states in part, "if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement. See Special Condition Q, Schedule of Compliance, of this permit for specifics on the tasks and deadlines within the five-year schedule.

This permit establishes seasonal monthly average, 60-day average and annual average TSS limitations. Beginning June 1, 2010, the final summertime 60-day average (June 1 – September 30) limitation of 11,000 lbs/day is being established as a TMDL recommended limit to mitigate the adverse affects of settleable solids on the macro-invertebrate community in the Livermore Falls impoundment. The interim 60-day average limit of 12,200 lbs/day is being established based on negotiations between the Department and permittee and becomes effective on June 1, 2006. The summertime monthly average limit of 15,500 is being established and is also based on negotiations between the Department and permittee. The non-summertime monthly average limitation of 32,900 lbs/day is being carried forward from the previous licensing action. The summertime and non-summertime daily maximum limitations of 40,000 lbs/day and 50,000 lbs/day respectively, are being established based on negotiations between the Department and permittee. The annual average limitation of 15,952 lbs/day is a TMDL recommended limit and is being established to reduce the contribution of sediment oxygen demand to non-compliance in GIP.

2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

Should the permittee request to do so, the Department will consider pollutant trading in accordance with EPA's January 13, 2003, Water Quality Trading Policy. The TMDL has established the trading caps for specific pollutant loadings to GIP to meet water quality standards as well as trading ratios between discharges based on their proximity to GIP and other dischargers.

A summary of the TSS limitations in this permitting action is as follows:

	<i>Monthly Avg.</i>	<i>60-Day Avg.</i>	<i>Annual Avg.</i>	<i>Daily Maximum</i>
<i><u>June 1 – Sept 30</u> Beginning upon issuance</i>	<i>15,500 lbs/day</i>	<i>---</i>	<i>---</i>	<i>40,000 lbs/day</i>
<i><u>June 1 – Sept 30</u> Beginning June 1, 2006 Beginning June 1, 2010</i>	<i>15,500 lbs/day 15,500 lbs/day</i>	<i>12,200 lbs/day 11,000 lbs/day</i>	<i>15,952 lbs/day 15,952 lbs/day</i>	<i>40,000 lbs/day 40,000 lbs/day</i>
<i><u>Oct 1 – May 31</u> Beginning Oct. 1, 2005</i>	<i>32,900 lbs/day</i>	<i>N/A</i>	<i>---</i>	<i>50,000 lbs/day</i>
<i><u>Oct 1 – May 31</u> Beginning January 1, 2006</i>	<i>32,900 lbs/day</i>	<i>N/A</i>	<i>15,952 lbs/day</i>	<i>50,000 lbs/day</i>

Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, Schedules of Compliance, states in part, “if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

- (i) The time between interim dates shall not exceed 1 year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.*
- (ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.*

Special Condition Q, Schedule of Compliance, of this permit sets forth interim requirements (in the form of studies/evaluations) and dates for achieving said studies/evaluations pursuant to Chapter 523. In addition, Special Condition Q establishes submission of annual progress reports to the Department for the term of the five-year schedule.

2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

OUTFALL #001A & 001B (Final effluent)

The final effluent limits for TSS may be changed, consistent with governing statutes and regulations, by subsequent permit modifications or renewals issued by the Department resulting from revisions to the TMDL or other new information. Any such changes must meet anti-backsliding requirements contained in Department rules, Chapter 523, §5(l) and 33 U.S.C. §1342(o).

Pursuant to Maine law 38 M.R.S.A. §414-A(5)(B)(1), *Modification, Reopening and Revocation*, the Department is initiating this modification in part to correct technical and procedural mistakes that were made in establishing the schedule of compliance with limitations for TSS in the September 21, 2005 permit.

Attachment A of this Fact Sheet depicts a graphical presentation of the limitation established in this permitting action superimposed on the historic 60-day rolling average TSS effluent data reported to the Department dating back to at least July of 2000. The graph indicates that RPC has demonstrated through proper operation of its waste water treatment facility that it has been in substantial compliance with the TSS limitation in this permitting action dating back to 2000. The Department's mistake was that it failed to adequately consider historic TSS data for the facility in determining whether to include a schedule of compliance in the permit. As a result, the Department erred by including a compliance schedule that was not necessary. Therefore, this permitting action is eliminating the schedule in its entirety.

A summary of the TSS limitations in this permitting action is as follows:

	Monthly Avg.	60-Day Avg.	Annual Avg.	Daily Maximum
<u>June 1 – Sept 30</u> Beginning upon issuance	15,500 lbs/day	11,000 lbs/day	15,952 lbs/day	40,000 lbs/day
<u>Oct 1 – May 31</u>	32,900 lbs/day	N/A	15,952 lbs/day ⁽¹⁾	50,000 lbs/day

Footnote:

(1) Beginning January 1, 2006

2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

- b. Total phosphorus and Ortho-phosphorus – The Fact Sheet of the September 21, 2005 permit included the following italicized text;

This permitting action is establishing seasonal (June 1 – September 30) monthly average total phosphorus and ortho-phosphorus mass limitations. The final limitations of 152 lbs/day and 97 lbs/day respectively, were based on the recommendations in the May 2005 final TMDL and were derived based on mass discharge values for both parameters for the period May 1 – September 30, 2004. This permitting action also establishes a seasonal (June 1 – September 30) monthly average and daily maximum reporting requirement for concentration for both parameters to track discharge performance as well as a monitoring frequency of 3/Week.. The permittee has indicated that the proposed mass limits were exceeded in July of 2004, and that there has been insufficient opportunity at the waste water treatment facility to observe if these nutrients levels are adequate to continuously to sustain a healthy biological community in the aeration basin during summer temperatures.

As with TSS, this permit establishes a schedule of compliance pursuant to Maine law 38 M.R.S.A., §414(2) Schedules of Compliance, and Department rule Chapter 523, Waste Discharge License Conditions, § Section 7, Schedules of Compliance, such that final mass limit consistent with the TMDL recommendations become effective June 1, 2010. The permit also establishes interim limitations for the period beginning the effective date of the permit, and lasting through June 1, 2010. Based on the collective list of studies and evaluations listed in Special Condition Q of this permit, the Department has deemed a schedule of five years to be necessary and is as short as possible based on consideration of the technological, economic and environmental impact of the steps necessary to meet some combination of total phosphorus and ortho-phosphorus limitations in this permit.

2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

OUTFALL #001 (Final effluent)

At the permittee's written request, the Department may approve another combination of total phosphorus and ortho-phosphorus discharge limits that is equally protective of water quality in the Gulf Island Pond. A written request shall be based on the methods of evaluation used in the TMDL.

Maine law 38 M.R.S.A, §465 (as amended via P.L. 2005, Chapter 409), the State Legislature found that "the mitigation of water quality impairments on certain Class C waters requires extraordinary limitations on the discharge of certain pollutants, including phosphorus, that will reasonably necessitate longer than usual time frames for implementation."

Maine law 38 M.R.S.A. §465-B(5) (as amended via P.L. 2005, Chapter 409) states:

Water quality modeling. The Department of Environmental Protection shall supervise additional modeling of Gulf Island Pond on the Androscoggin River in order to review and, as appropriate, revise the total maximum daily load for phosphorus.

- 1. The additional modeling must be done under contract to the department and funded by those dischargers seeking additional information on the present total maximum daily load for phosphorus.*
- 2. The additional modeling must be based on ambient data collected under reduced loading conditions to Gulf Island Pond, including model parameters such as sediment oxygen demand, chlorophyll-a concentration at critical conditions and phosphorus assimilation and mineralization rates.*
- 3. The model revisions must be completed by March 15, 2009 and submitted to the Department of Environmental Protection and a 3rd-party peer reviewer for review and evaluation. The 3rd-party peer reviewer must be approved by the joint standing committee of the Legislature having jurisdiction over natural resources matters.*
- 4. The peer reviewer shall submit recommendations on the model revisions and any revised total maximum daily load for phosphorus to the Department of Environmental Protection by June 15, 2009. By September 15, 2009, the department shall publish for review and public comment a revised modeling report and total maximum daily load for phosphorus that is based on the peer reviewer's recommendations.*
- 5. By March 15, 2010, the Department of Environmental Protection shall issue revised licenses, as needed, that are based on the revised and approved total maximum daily load report for phosphorus created as a result of the modeling revisions pursuant to this section.*

2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

OUTFALL #001 (Final effluent)

6. *Any reallocation of phosphorus among licensed dischargers contributing to algae blooms in Gulf Island Pond must take into consideration all prior total maximum daily load allocations, license limits and attainment of interim or final phosphorus limits as issued in prior total maximum daily loads or licenses so as not to create inequities in regard to attainment of prior phosphorus limits. The purpose of this subsection is to prevent penalizing dischargers who have attained early compliance with prior license limits or total maximum daily load allocations.*
7. *Any change in license limits based on a revised and approved total maximum daily load for phosphorus must comply with anti-backsliding requirements contained in state and federal law.*
8. *The Department of Environmental Protection is not obligated to make revisions to the model or existing approved total maximum daily load if funding is not provided for the additional work described in this section.*
9. *It is the intent of the Legislature that dischargers shall make continuous progress in actual effluent reductions towards reaching final allocations under the total maximum daily load allocations in existence on the effective date of this section or as revised under this section to March 15, 2010.*

The final effluent limits for total phosphorus or ortho-phosphorus may be changed, consistent with governing statutes and regulations, by subsequent permit modifications or renewals issued by the Department resulting from revisions to the TMDL or other new information. Any such changes must meet anti-backsliding requirements contained in Department rules, Chapter 523, §5(l) and 33 U.S.C. §1342(o).

Pursuant to Maine law 38 M.R.S.A. §414-A(5)(B)(3), the Department is initiating this modification in part to establish new interim monthly average mass limits for total phosphorus and ortho-phosphorus and the associated schedule of compliance with said limits based on new information regarding discharge levels of total phosphorus and ortho-phosphorus subsequent to the issuance of the September 21, 2005 permit.

Prior to issuance of the September 21, 2005 permit, RPC was not required to monitor and report test results for total phosphorus and ortho-phosphorus to the Department. Between 9/21/05 and 9/30/05, RPC sampled and reported total phosphorus and ortho-phosphorus values to the Department that called into question RPC's schedule of compliance. RPC has since submitted all of its phosphorus data dating back to the summer of 2004. See Attachment B of this Fact Sheet for a graphical presentation of the data for the summers of 2004 and 2005. With the exception of the month of July 2004, RPC has demonstrated compliance with the final monthly average limits for both total phosphorus and ortho-phosphorus.

2. EFFLUENT LIMITATIONS & MONITORING REQUIREMENTS (cont'd)

OUTFALL #001 (Final effluent)

The Department has determined the monthly average interim limits in the 9/21/05 permit for total phosphorus and ortho-phosphorus are not justifiable under statutory licensing criteria. Similarly, the Department has determined the five-year schedule established in the 9/21/05 permit for compliance with the final limits of 152 lbs/day for total phosphorus and 97 lbs/day for ortho-phosphorus as is not justifiable under statutory licensing criteria. However, given the dramatic decrease from 2004 to 2005 values in Attachment B, the Department believes it is necessary and appropriate to establish a two-year schedule of compliance for both parameters given the uncertainty in maintaining such low discharge levels while maintaining a healthy and efficient biological treatment system. Therefore, this permit modification is establishing new interim monthly average mass limits for total phosphorus and ortho-phosphorus and a new two-year schedule of compliance based on a best professional judgment by the Department taking into consideration historic effluent data and the technological, economic and environmental impact of the steps necessary to attain those standards.

A summary of the phosphorus limitations in this permitting action are as follows:

<u>Parameter</u>	<u>Monthly Average</u>
<u>Total phosphorus</u> Beginning upon issuance	160 lbs/day
Beginning June 1, 2008	152 lbs/day
<u>Ortho-phosphorus</u> Beginning upon issuance	107 lbs/day
Beginning June 1, 2008	97 lbs/day

In addition to modifying limitations and schedules of compliance for the 60-day rolling average limit for TSS and the monthly average limits for phosphorus, this permit is modifying the terms and conditions of Special Condition Q, *Schedule of Compliance*, to coincide with the limits and schedules modified above.

3. DISCHARGE IMPACT ON RECEIVING WATER QUALITY

As permitted (based in part on the recommendations in May 2005 final TMDL), the Department has determined the existing water uses will be maintained and protected and anticipates additional improvements in water quality after implementation of water quality based limits herein that will result in the discharge not causing or contributing to the failure of the Androscoggin River to meet standards of its assigned Class C classification.

4. PUBLIC COMMENTS

Those persons receiving copies of draft permit or parties that have expressed interest in this permitting action shall have at least 30 days in which to submit comments on the draft or to request a public hearing, pursuant to Chapter 522 of the Department's rules.

5. DEPARTMENT CONTACTS

Additional information concerning this permitting action may be obtained from and written comments should be sent to:

Gregg Wood
Division of Water Quality Management
Bureau of Land and Water Quality
Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017
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6. RESPONSES TO COMMENTS

Reserved